



STATE OF NEW JERSEY

Board of Public Utilities

*Two Gateway Center
Newark, NJ 07102*

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION)
FOR AN ORDER AUTHORIZING CCCNJ,)
INC. D/B/A CONNECT! TO PROVIDE)
FACILITIES-BASED LOCAL EXCHANGE)
TELECOMMUNICATIONS SERVICES)
THROUGHOUT NEW JERSEY)

ORDER OF APPROVAL

DOCKET NO. TE99100775

(SERVICE LIST ATTACHED)

BY THE BOARD:

By letter dated October 12, 1999, CCCNJ, Inc. d/b/a Connect! (Petitioner or Connect!) filed a petition with the Board of Public Utilities (Board) requesting authority to provide all forms of facilities-based local exchange services, including carrier access services, throughout the State of New Jersey. By letter dated November 12, 1999, Petitioner filed a Motion for Protective Order related to additional financial information contained in Exhibits 2 and 3, alleging that this financial information is highly proprietary and confidential. In addition, Petitioner submitted local exchange and access tariffs. The Petitioner's request for tariff approval has been separately docketed at Docket No. TT99100776 and remains pending at the Board. Petitioner submitted responses to interrogatories by letter dated November 12, 1999 and a response to a Staff questionnaire on September 7, 1999.

According to the petition, Petitioner was incorporated under the laws of the State of New Jersey on February 26, 1999. Petitioner's principal offices are located at 124 West Capitol Avenue, Suite 250, Little Rock, Arkansas 72201. Petition at 3. Petitioner submitted copies of its Articles of Incorporation and its New Jersey Certificate of Good Standing. *Id.* at 3, Exhibit 1 and Letter dated November 12, 1999 at Exhibit 1. According to the petition, Connect! was formed to provide all forms of telecommunications services, including resold and facilities-based local exchange services. *Id.* at 5. Petitioner advised that Connect! and its affiliates are in the process of obtaining authority to provide telecommunications services in Arizona, Connecticut, Delaware, The District of Columbia, Florida, Indiana, Illinois, Kentucky, Louisiana, Maryland, Michigan, Missouri, New Hampshire, New Mexico, Virginia, West Virginia and Wisconsin. In addition, Connect! advised that its affiliates are authorized to provide resold and facilities-based local exchange services in the States of Alabama, Arkansas, California, Colorado, Idaho, Kansas, Montana, Nevada, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Utah and Washington. *Ibid.* Connect! also stated that its affiliates have been providing telecommunications services since April of 1997 and neither Connect! nor any of its affiliates have been denied authority to provide telecommunications services in any State. In addition Connect! stated that it has not had any certification revoked or limited in any way and currently it has no pending civil, criminal or administrative action against it. *Ibid.* By letter dated November 12, 1999 Connect! stated that its affiliates Connect! Arkansas and Rhode Island serve 288 and 960 access lines, respectively. Connect! and its affiliates currently have 34 employees. Letter dated November 12, 1999 at 3. By letter dated September 7, 1999 Petitioner advised that a petition for

approval of an interconnection agreement with Bell Atlantic-New Jersey, Inc. (BA-NJ) is pending at the Board (Docket No. TO 99080629).

In its petition, Petitioner advised that it seeks authority to provide facilities-based local exchange telecommunications services to business and residential customers throughout New Jersey. Petition at 1. Connect! stated that it does not intend at this time to serve any small or rural LEC service areas in the State of New Jersey but it seeks statewide authority so that it may expand its service areas as market conditions warrant. Id. at 1-2. According to the petition, Connect! intends to provide its services utilizing a combination of its own facilities and the resold facilities of other carriers. Petitioner stated that it intends to provide a full range of facilities-based local exchange services, which may include, but will not be limited to the following: (1) local exchange access services to single-line and multi-line customers (including basic access lines, direct inward/outward PBX trunk service, Centrex services and ISDN), (2) local exchange services to customers of Connect!'s end user access line services, and (3) switched, dedicated and special carrier access services to other common carriers. Id. at 6.

Petitioner requested a waiver of N.J.A.C. 14:1-4.3, which requires that its books and records be maintained in accordance with the Uniform System of Accounts (USOA). Petitioner advised that in the interest of efficiency and since Petitioner's services are not subject to rate of return regulation, its books and records will be maintained in accordance with Generally Accepted Accounting Principles (GAAP). Id. at 4. Petitioner also requested a waiver pursuant to N.J.A.C. 14:1-5.15(a), which provides for the filing of petitions for authority to keep books and records outside the State of New Jersey. Petitioner requested that all books, records, documents and other writings incident to the conduct of business of Petitioner in the State of New Jersey be kept at Petitioner's corporate offices in Little Rock, Arkansas. Ibid. Petitioner stated that a requirement of storage of its books and records in the State of New Jersey would place an undue financial burden on Petitioner as it competes with other local exchange carriers in the State of New Jersey. Petitioner also stated upon written notice from the Board it will produce its books and records at such time and place within New Jersey as the Board may designate, and will pay any reasonable expenses for investigation or examination of the records. Ibid.

Petitioner asserted that approval of its petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. Id. at 7. Petitioner also asserted that approval of this Petition will provide New Jersey customers with access to new technologies and service choices and will permit customers to achieve increased efficiencies and cost savings. In addition, Petitioner stated that approval of its petition will enhance the telecommunications infrastructure in the State of New Jersey and will facilitate economic development. Ibid.

With regard to its managerial qualifications, Connect! stated that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. Id. at 5. Petitioner submitted the professional biographies of its key personnel which, according to Connect!, are well qualified to execute its business plan, having extensive managerial and technical experience in the telecommunications industry. Petition at 5, Exhibit 3. Petitioner advised that it plans to install state-of-the-art telecommunications equipment and multiplexer equipment in each of the ILEC central offices in which it is collocated. Id. at 6. According to the petition, during the initial phase of Petitioner's operations in New Jersey, Connect!'s customers will remain on the ILEC network and continue to have 911 and 0-dialed calls directed to ILEC Public Safety Answering Points via the ILEC network. Ibid. In addition, Petitioner stated that as its facilities are constructed, Petitioner's customers may be transitioned to service that is delivered over Petitioner's facilities, customers also may have 911 and 0-dialed emergency calls via Petitioner's network which will be interconnected with the public switched telephone network. Id. at 6-7.

In support of its financial qualifications, Petitioner stated that it has access to the financing capital necessary to conduct the telecommunications operations of the requested services. Petition at 3. Connect! advised that as a recently formed subsidiary it does not have its own financial statements and will rely on the financial resources of its affiliate, Connect Communications Corporation (CCC), to provide the initial capital investment and funding for its New Jersey operations. Ibid. In support of its financial qualifications, Petitioner submitted financial statements of CCC, which includes balance sheets and statement of operations for the three months ended March 31, 1999. Ibid., Exhibit 2. By letter dated November 12, 1999, Petitioner submitted CCC's balance sheets, statements of operations and income statements for the year ending December 31, 1998 and pro forma income statements for the first two years of operations in the State of New Jersey. Exhibits 2-3. Along with its petition, Connect! submitted a Motion for a Protective Order to limit the availability of the financial information contained in Exhibit 2 to the Petition, asserting that public disclosure of the highly sensitive, confidential and proprietary business information in Exhibit 2 would result in an unfair competitive advantage to CCCNJ's competitors since they could ascertain CCCNJ's financial capacity through the use of this information. In addition, Petitioner submitted a Motion requesting that the Board grant protective treatment of financial information contained in Exhibits 2 and 3 submitted by letter dated November 12, 1999. Petitioner asserted that this submission contain extremely sensitive and strategic information that could be used by competitors to determine market share, revenue and other information damaging to Connect! in the marketplace. November 12, 1999 Motion at 1. Petitioner also stated that it has used its best efforts to keep and maintain such information confidential and due to the sensitive nature of this information requested that the Board limit access to such information.

DISCUSSION

On February 8, 1996, the federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. §151 et seq., was signed into law, removing barriers to competition by providing that:

[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

[47 U.S.C. §253(a)].

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner meets all other requirements, including, but not limited to a demonstration of financial, technical and managerial integrity. In considering this application, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). Approval is also in keeping with the New Jersey State Legislature's declaration that it is the policy of the State to provide diversity in the supply of telecommunications services, and its findings that competition will "promote efficiency, reduce regulatory delay and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed Connect!'s petition and the information supplied in support thereof, the Board FINDS that Petitioner has demonstrated that it possesses the requisite financial, technical and managerial resources which are necessary to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES Petitioner to provide local exchange telecommunications services in New Jersey subject to approval of its tariffs. The Board notes that Petitioner will not be able to provide telecommunications services until its tariff (Docket No. TT99100776) is approved by the Board. With regard to Petitioner's financial information submitted with the petition and by letter dated November 12, 1999, the Board FINDS that the Petitioner has shown good cause, pursuant to N.J.A.C. 1:1-14.1, that the information contained in Exhibit 2 to the

petition and in the letter dated November 12, 1999 at Exhibits 2 and 3 is sensitive financial information which merits protection from disclosure in order to prevent competitive harm to the Petitioner. Therefore, the Board DIRECTS that the information contained in Exhibit 2 to the petition and in the November 12, 1999 letter at Exhibits 2 and 3 be kept under seal. Regarding the Petitioner's request for waivers of Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief, pursuant to N.J.A.C. 14:1-1.2(b)1 and N.J.A.C. 14:1-5.15(a), from its requirements to maintain its books and records under the USOA and within New Jersey. Therefore, subject to the Petitioner's continuing responsibility to provide the Board its books and records upon 48 hours notice, and in the manner requested, and to pay to the Board any reasonable expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board APPROVES Petitioner's request for the exemptions from maintaining its books and records in New Jersey and under the USOA.

DATED: February 28, 2000

BOARD OF PUBLIC UTILITIES
BY:

(signed)
HERBERT H. TATE
PRESIDENT

ATTEST:

(signed)
CARMEN J. ARMENTI
COMMISSIONER

(signed)
EDWARD D. BESLOW
ACTING BOARD SECRETARY

(signed)
FREDERICK F. BUTLER
COMMISSIONER